



72-SPI-PHD
Document from 1970s

MINNESOTA PUBLIC INTEREST RESEARCH GROUP

2418 UNIVERSITY AVE. S.E.
MINNEAPOLIS, MINNESOTA 55414 (612) 376-7554

June 21, 1972

STATEMENT OF
MINNESOTA PUBLIC INTEREST RESEARCH GROUP
BEFORE BILL OF RIGHTS COMMITTEE OF MINNESOTA
CONSTITUTIONAL STUDY COMMISSION

Delivered by: Peter H. Benzian,
Staff Attorney

The Minnesota Public Interest Research Group (MPIRG) is an organization composed of approximately 90,000 college students located on 19 college campuses throughout the state of Minnesota. This student group funds and directs a professional staff of lawyers, scientists and researchers. I am here at the students' direction to advocate that the Minnesota Constitutional Study Commission recommend to the Governor and the Legislature an amendment to the Constitution which insures that the physically and mentally handicapped persons are entitled to all rights and privileges which the majority of Minnesota citizens enjoy.

The amendment which MPIRG proposes is attached as an enclosure to the text of my statement and on inspection you will note that it is not confined to the problem of persons with physical and mental handicaps. Rather, it is an amendment which seeks to insure the equal protection of the law for, and the end of state and private discrimination against, groups which traditionally have suffered injustice. At this point, however, I wish to confine

my remarks to the problems encountered by physically and mentally handicapped persons and to present to this Committee several reasons why it should recommend the adoption of an amendment which specifically addresses those problems.

The Committee has heard, and will hear, eloquent testimony to the problems encountered by those having physical and mental disabilities. At the risk of belaboring this point, however, I wish to present to this Committee some additional statistics which suggest the extent to which the rights and privileges of citizenship are denied to a significant segment of our society.

It is estimated that there are over 20 million people in the United States with a physically disabling condition severe enough to interfere with their normal daily activities. While there is no readily acknowledged figure representing the number of physically handicapped in the state of Minnesota, most agree that the number approximates 100,000. In remarks before the Senate of the United States, Senator Humphrey gave some indication of the extent of the problem. He stated:

"I am insisting that the civil rights of 40 million Americans now be affirmed and effectively guaranteed by Congress - several million disabled war veterans, the 22 million people with a severe, physically disabling condition, the one in every ten Americans who has a mental condition requiring psychiatric treatment, the six million persons who are mentally retarded,

the hundreds of thousands crippled by accidents and the destructive forces of poverty, and the hundred thousand babies born with defects each year."

The degree to which physically and mentally handicapped children are denied equal educational benefits is but one example documenting the need for an amendment to the Constitution of the type proposed. The U. S. Office of Education has reported that less than 40% of the seven million handicapped children in the United States get the special educational assistance they need - yet this nation has made a fundamental commitment to the right of all children to education. Many of these children are classified as educable mentally retarded. But more than one million children are denied entry into public schools, even to participate in special classes. According to figures compiled from the Department of Health, Education and Welfare by Rep. Charles A. Vanik of Ohio, the estimated number of handicapped children in Minnesota not served by the state's school system is 52,000 - or approximately 40% of the total number of handicapped children in the state.

There is legislation in Minnesota which authorizes local school districts to provide special instruction and services for handicapped children of school age who are residents of their districts. But much discretion is left to individual school boards to determine which children may be admitted to regular public schools. It is submitted that often, children who could perform in regular public schools are consistently shunted to either private

or special schools where they do not get the sort of education which enables them to fulfill their capabilities. In effect, what we have in this country and in this state is a separate but purportedly equal system of education for mentally and physically handicapped children. To this date, the Supreme Court of the United States has not invalidated such a system with respect to the physically and mentally handicapped. But several courts are beginning to recognize the similarities between the segregated school systems that were invalidated by the Supreme Court in 1954 and the current situation that exists with respect to physically and mentally handicapped children. It is submitted that the state of Minnesota should not wait for the equivalent of Brown v. Board of Education before it moves to establish an educational system for physically and mentally handicapped children which is equal in the truest and fullest sense of the word.

The extent to which handicapped children can perform in regular public schools was recently indicated by an article in the Minneapolis Tribune of June 5, 1972. That article described a young lady named Susie St. George who, due to an automobile accident when she was five years old, was permanently disabled. Despite her handicap, however, Susie graduated from Elk River High School with close to a "B" average, receiving outstanding ratings in citizenship and use of abilities. Susie, during her public high school career, has developed a real love of music and appears to be on her

way to a normal adult life. It is doubtful, however, that such a happy ending would have resulted had Susie been denied admission to the various public school institutions which she attended as so many other children in her condition are.

The lack of opportunities for employment of physically and mentally handicapped persons offer another example of why an amendment of the type proposed is needed. No statistics exist which precisely document the problem, but it is common knowledge that thousands of physically and mentally handicapped persons are denied employment in Minnesota and forced to work in "sheltered workshops" at less than minimum wages not because of their inability to fulfill the occupational requirements of a particular job, but simply because employers regard such persons as "different" or a "disturbing influence". There are, however, sufficient statistics clearly demonstrating the benefits to the national economy and the investment return of income tax revenues resulting from vocational rehabilitation and job placement for citizens with physical and mental handicaps.

Senator Humphrey has documented other problems encountered by physically and mentally handicapped persons. He stated: "Injustices confronted by the hidden population of millions of handicapped persons across America are being increasingly brought to light, with challenges being raised where a handicapped person cannot travel alone on an airline flight, or is denied mortgage life insurance protection or a fair wage for his work, or experiences the discriminatory effect of job qualification questionnaires or

employment procedures." These are just the tip of the iceberg, however, as you have learned and will learn from the testimony presented to you today by those suffering this discrimination at first hand. Clearly, some action must be taken.

There are a number of ways to combat this problem of deprivation of rights to physically and mentally handicapped persons. Obviously, additional legislation is needed to insure that such persons can exercise their constitutional rights such as the right to vote and the right to travel. Such legislation is of course not directly the concern of the Constitutional Study Commission. But MPIRG submits that the Commission can indirectly spur the enactment of such legislation by recommending the adoption of the constitutional provision proposed which insures that persons with physical and mental disabilities are not discriminated against. Such an amendment is appropriate for a number of reasons:

- (1) It would provide a substantive right to physically or mentally handicapped persons which they could assert in the courts of this state to eliminate or enjoin instances of discrimination.
- (2) The proposed amendment would also authorize and indeed require the Legislature to enact legislation insuring that physically and mentally handicapped persons received equal opportunities for education, employment, and the enjoyment of other fundamental

rights of citizenship.

- (3) Finally, and perhaps most importantly, it would impress upon the people of this state, and give dignity to, the proposition that mentally and physically handicapped persons are entitled to the same rights and privileges that all other people of the state enjoy.

Nor would Minnesota be the first state to offer specific protection in its Constitution to the handicapped. As I'm sure you know, Illinois has included in its Bill of Rights an article which prohibits discrimination against handicapped persons, in the sale or rental of property or in matters dealing with employment. The recently adopted Montana Constitution also appears to attack the problem by prohibiting discrimination against any person on the basis of his "condition".

Admittedly the proposed article grants broader coverage than the two discussed above. It does not limit the applicability of the article to discrimination in the case of sale or rental of property or employment but is general in nature as is the discrimination practiced against handicapped persons. Such broadness is necessary if handicapped persons are to receive the protection they need.

Finally, the proposed article does not present the problems that some have raised with respect to the proposed Federal

Equal Rights for Women Amendment - that such an amendment would invalidate the laws benefiting women. Nothing in the proposed article could be construed as prohibiting benefits which the state grants to handicapped persons.

Thomas Wolfe once described the American Promise in these words:

"To every man his change^{ce}; to every man, regardless of his birth, his shining golden opportunity - to every man the right to live, to work to be himself, and to become whatever thing his manhood and his vision can combine to make him - this, seeker, is the Promise of America."

For too long, however, that promise has been denied to a major segment of the population of this nation and this state - those persons who suffer from mental or physical handicaps. MPIRG calls upon the Constitutional Study Commission ^{to eliminate} ~~to recommend that~~ this hypocrisy ~~cease~~ by recommending the adoption of the enclosed proposed amendment.

- (1) No Person shall be denied the equal protection of the laws nor shall the state or any person, firm, institution, corporation or other entity discriminate against any person on the basis of race, color, creed, national ancestry, sex, religious opinion or physical or mental handicap.
- (2) The Legislature shall have power to enforce this article by appropriate legislation.